

[Use of City Surplus Real Property for Affordable Housing]

CHARTER AMENDMENT

PROPOSITION ____

Describing and setting forth a proposal to the qualified voters of the City and County of San Francisco to amend the Charter of the City and County of San Francisco by adding Section 16.128.

The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 6, 2007, a proposal to amend the Charter of the City and County by adding Section 16.128 to read as follows:

Note: Additions are *single-underline italics Times New Roman*.
Deletions are ~~*strikethrough italics Times New Roman*~~.

SEC. 16.128. CITY SURPLUS REAL PROPERTY

(a) Definitions.

For purposes of this section:

(1) "Property" shall mean any real property owned by the City and County in fee that is located within the geographic boundaries of San Francisco, but shall not include: (i) real property subject to a deed, contractual or other legal restriction relating to the use or transfer of such real property in a manner that would prevent such use or transfer consistent with the provisions of this Section; (ii) real property owned by the City and County in trust for the people or another entity; (iii) public right-of-way, street, or sidewalk property used in the delivery of public utility services; (iv) real property that is being used or transferred in connection with an exchange for other real property or in connection with a lot line adjustment where the City property is not otherwise appropriate for development as a stand-alone parcel; and (v) real property under the jurisdiction of the City's Port Commission, Public Utilities Commission, or Recreation and Park Commission.

(2) "Surplus Property" shall mean any Property that is not used, or reasonably anticipated to be used, by the City in connection with fulfilling a municipal purpose or objective. Property transferred or used in a manner approved by the voters, and property used as open space or for parks or recreation, shall not be deemed Surplus Property for purposes of this Section.

(3) "Underutilized Property" shall mean an entire Property or portion thereof that the City uses only at irregular periods of time or intermittently and which irregular or intermittent use could be fulfilled or accomplished on other Property, or that the City uses for purposes that can be satisfied with only a portion of such Property and the remainder of such Property could potentially be developed as affordable housing or sold to finance affordable housing.

(b) Inventory of Surplus Property.

Each City department or agency with jurisdiction over Property shall maintain a current inventory of the Property under its jurisdiction to determine which Property is Surplus Property or Underutilized Property. The City Administrator shall consult with City departments, the Mayor, and the Board of Supervisors to identify any Surplus or Underutilized Property and to help ensure that all Property is under the jurisdiction of the City department best able to use such Property. The City Administrator shall prepare and maintain a Surplus Property report that includes, at a minimum, the following with respect to each Surplus or Underutilized Property: the street address; the block and lot number; a description of the applicable zoning; the approximate square footage; and any known limitations on the development, use or transfer of the Property.

(c) City Policy on Surplus Property.

It shall be City policy to encourage the use of Surplus Property for the development or financing of affordable housing. For those Surplus Properties deemed suitable for use or development as affordable housing, the City Administrator or his or her designee shall publicize the availability and seek applications for the use or development of such Surplus Properties as

affordable housing. For Surplus Properties not deemed suitable for use or development as affordable housing, it shall be City policy to encourage the sale of such Surplus Properties and to designate the net proceeds of such sales for the purpose of financing affordable housing in San Francisco.

(d) City Priorities.

The following policy regarding the disposition of Surplus and Underutilized Property shall guide all City agencies and officials. Except where inconsistent with State law and other limitations expressly set forth herein, the City's goal in the use and disposition of any Surplus and Underutilized Property shall be:

(1) First, for the development of affordable housing for people who are homeless and persons earning less than twenty percent (20%) of the median income for the City and County of San Francisco, adjusted for household size, using data from the Department of Housing and Urban Development ("HUD") or its successor, provided that: (A) the housing shall remain affordable for the useful life of the improvements on the Property; (B) housing costs in such improvements shall not exceed thirty percent (30%) of the resident's income; and (C) projects in which people who are formerly homeless rehabilitate and renovate property in exchange for their tenancy shall be encouraged.

(2) Second, for other on-site services for people who are homeless or for non-profit agencies serving people who are homeless, including not limited to job training, senior services, healthcare and childcare for people who are homeless.

(3) Third, for the development of affordable housing for persons earning no more than sixty percent (60%) of the median income for the City and County of San Francisco, adjusted for household size, using data from HUD or its successor, provided that the housing shall remain affordable for the useful life of the improvements on the Property.

(e) Compliance with Laws and Restrictions.

Notwithstanding anything to the contrary in this Section, any final declaration by the City and County that Property is Surplus or Underutilized and any transfer or conveyance of Surplus Property shall be in accordance with and subject to all applicable laws, including without limitation (i) the terms and conditions of any gift, trust, deed restriction, bond covenant or other covenants or restrictions, mortgage, deed of trust, lease, license, use agreement or other agreement applicable to such Property, (ii) state or federal laws related to the disposition of surplus property, including, without limitation, Government Code Section 54220 et seq., (iii) any policies or rules adopted by the Board of Supervisors to implement the provisions of this Section, and (iv) the receipt of all necessary City approvals after the completion of all required environmental review under applicable law. Any requirement set forth in the City's Administrative Code regarding sale by public auction or competitive bidding, or a sales price of not less than one hundred percent (100%) of fair market value, shall not apply to Surplus Property dispositions for affordable housing pursuant to this Section.

(f) Restrictive Covenants.

Any transfer of Surplus Property made under this Section for the development of affordable housing shall include restrictive covenants that require that the Property be used for affordable housing purposes in conformance with this Section and that prohibit any private party from reselling, transferring or subleasing the Property at a profit, or include such other "anti-speculation" requirements as the Board of Supervisors may approve.

(g) Board Implementation.

The Board of Supervisors may adopt legislation to implement the provisions of this

Section.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Charles Sullivan
Deputy City Attorney